



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) in their five-year (sunset) review that revocation of the antidumping duty (AD) order on fresh garlic from the People's Republic of China (China) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States. Therefore, Commerce is publishing a notice of continuation of the AD order on fresh garlic from China.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5255.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1994, Commerce published the AD order on imports of fresh garlic from China.¹ On October 3, 2022, the ITC instituted,² and Commerce initiated³ the fifth five-

¹ See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 5209 (November 16, 1994) (*Order*).

² See *Fresh Garlic from China; Institution of a Five-Year Review*, 87 FR 59824 (October 3, 2022).

³ See *Initiation of Five-Year (Sunset) Reviews*, 87 FR 59779 (October 3, 2022).

year (sunset) review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). Commerce conducted an expedited (120-day) sunset review of the *Order*, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of its review, Commerce determined, pursuant to sections 751(c)(1) and 752(c) of the Act, that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and, therefore, Commerce notified the ITC of the magnitude of the margin likely to prevail were the *Order* to be revoked.⁴

On May 17, 2023, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Order* would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

Scope of the *Order*

The products covered by the *Order* are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay. The scope of this *Order* does not include the following: (a) garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed. The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings: 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0000, 0703.20.0090, 0710.80.7060, 0710.80.97500, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700 of the Harmonized Tariff Schedule of the United States (HTSUS).

⁴ See *Fresh Garlic from the People's Republic of China: Final Results of the Expedited Fifth Review of the Antidumping Duty Order*, 88 FR 7940 (February 7, 2023).

⁵ See *Fresh Garlic from the People's Republic of China, Investigation No. 731-TA-683 (Fifth Review)*, 88 FR 31525 (May 17, 2023).

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the *Order* is dispositive. To be excluded from the *Order*, garlic entered under the HTSUS subheadings listed above that is: (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to U.S. Customs and Border Protection to that effect.

Continuation of the *Order*

As a result of the determinations by Commerce and the ITC that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to sections 751(c) and 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Order*. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the *Order* will be the date of publication in the *Federal Register* of this notice of continuation. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next five-year review of this *Order* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR

351.305(a)(3). Failure to comply with the regulations and terms of an APO is a violation which may be subject to sanctions.

Notification to Interested Parties

This five-year (sunset) review and notice are in accordance with sections 751(c) and (d)(2) and 777(i)(1) the Act, and published in accordance with section 777(i) of the Act and 19 CFR 351.218(f)(4).

Dated: May 18, 2023.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.